
**Working Party on the
Accession of China**

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COMMUNICATION FROM CHINA

In preparation for the Working Party meetings on 28 June-4 July 2001, the Chinese delegation has submitted the following documentation on the Laws and Regulations of China on the Right to Trade.¹

**Groupe de travail de
l'accession de la Chine**

COMMUNICATION DE LA CHINE

En vue des réunions du Groupe de travail qui auront lieu du 28 juin au 4 juillet 2001, la délégation chinoise a communiqué la documentation ci-après sur les lois et réglementations de la Chine concernant le droit au commerce.¹

**Grupo de Trabajo sobre la
Adhesión de China**

COMUNICACIÓN DE CHINA

Para preparar las reuniones del Grupo de Trabajo que se celebrarán del 28 de junio al 4 de julio de 2001, la delegación de China ha presentado la siguiente documentación relativa a las leyes y reglamentos sobre el derecho al comercio de China.¹

¹ In English only./En anglais seulement./En inglés solamente.

List of Laws and Regulations of China on the Right to Trade
28 June 2001

1. Foreign Trade Law of the People's Republic of China
2. Provisional Measures for Automatic Registration of Import and Export Trading Rights by Production Enterprises in the Special Economic Zones
3. Interim Provisions for the Granting of Rights of Self-Managed Import and Export to Privately-Owned Production Enterprises and Scientific Research Academies and Institutes
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Foreign Trade Law of the People's Republic of China
(Adopted at the Seventh Meeting of the Standing Committee
of the Eighth National People's Congress on 12 May 1994,
promulgated by Order No.22 of the President of the People's Republic of China
on 12 May 1994, and effective as of 1 July 1994)

Chapter I General Provisions

Article 1

This Law is formulated for the purpose of developing foreign trade, vindicating the foreign trade order, and promoting the sound development of the socialist market economy.

Article 2

In this Law, foreign trade refers to import and export of commodities and technology as well as international service trade.

Article 3

The competent department of foreign economic relations and trade of the State Council shall be in charge of the national foreign trade according to this Law.

Article 4

The State shall pursue a unified scheme of foreign trade, and uphold according to law a fair and free foreign trade order.

The State shall encourage the development of foreign trade, bring the initiative of the local authorities into full play, and guarantee the independent operational rights of the foreign trade operators.

Article 5

The People's Republic of China shall, in conformity with the principle of equality and mutual benefit, promote and develop trading relationship with other countries and regions.

Article 6

In the respect of foreign trade, the People's Republic of China shall, according to the international treaties or agreements which she has concluded or acceded to, accord other signatories or acceding parties, or according to the principle of reciprocity, accord the other side, the most-favoured-nation treatment or the national treatment.

Article 7

Where any state or region adopts discriminative prohibition, restriction, or any other similar measures to the People's Republic of China in trading connection, the People's Republic of China may, in the light of specific circumstances, adopt corresponding measures to that state or region.

Chapter II Foreign Trade Operators

Article 8

In this Law, foreign trade operators refer to either legal persons or other organizations which engage in foreign trade business according to the provisions of this Law.

Article 9

Those who intend to be a foreign trade operator to engage in import and export of commodities or technology shall meet the following requirements and obtain the permit from the competent department of foreign economic relations and trade of the State Council:

- (1) having its own name and structural organs;
- (2) having a definite business scope of foreign trade;
- (3) having the site, funds and specialized personnel as required for the business;
- (4) having made the provided achievements in business of import and export through commissioning others therewith, or having sources of goods essential for the business of import and export; and
- (5) other requirements prescribed by laws or regulations.

Measures for the implementation of the provisions of the preceding paragraph shall be formulated by the State Council.

Foreign investment enterprises shall be exempted from the procedure provided for in the First Paragraph when they, according to the provisions of laws and regulations concerning foreign investment enterprises, import non-productive articles for their own use, import equipment, raw materials, and other goods and materials needed for their production, or export their products.

Article 10

The establishment and business activities of enterprises and organizations in international service trade shall comply with the provisions of this Law and other relevant laws and regulations.

Article 11

A foreign trade operator shall engage in business on its own, and assume sole responsibility for its profits and losses according to law.

Article 12

In their foreign trade activities, foreign trade operators shall abide by their contracts, ensure the quality of commodities, and perfect the service after selling.

Article 13

Organizations or individuals without the permit of foreign trade business may commission a domestic foreign trade operator to handle their foreign trade business within the business scope of the operator.

The foreign trade operator who has accepted the commission shall provide the commissioning party accurately the relevant business information such as the market quotations, the prices of commodities and the customer's situation, etc. The commissioning and commissioned parties shall conclude a commission contract, in which the rights and obligations of both parties shall be specified.

Article 14

Foreign trade operators shall, in accordance with the provisions of the competent department of foreign economic relations and trade of the State Council, submit to the competent departments documents and records relating to their foreign trade business. The competent departments shall keep the trade secrets for the provider.

Chapter III Import and Export of Commodities and Technology**Article 15**

Subject to provisions otherwise stipulated in the relevant laws and regulations, the State shall permit free import and export of commodities and technology.

Article 16

The State may impose restrictions on the import or export of the commodities and technology coming under the following categories:

- (1) those the import or export of which needs to be restricted in the light of the national security or the social and public interests;
- (2) those the export of which needs to be restricted in consideration of the shortage in domestic market or for a significant protection of the resources which may be exhausted in the country;
- (3) those the export of which needs to be restricted in consideration of the market capacity of the destination country or region;
- (4) those the import of which needs to be restricted for the purpose of building or speeding up the building of the specific domestic industry;
- (5) those agricultural, stock or fishery products in any form whose import needs to be restricted;
- (6) those the import of which needs to be restricted for the purpose of ensuring the international financial standing of the State and/or in consideration of the balance between international income and expenditure of the state; and
- (7) those the import or export of which shall be restricted according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 17

The State shall prohibit the import or export of the commodities and technology coming under the following categories:

- (1) those which will endanger the national security or those which are prejudicial to the social and public interests;
- (2) those which must be prohibited from import or export in need of protecting human life or health;
- (3) those which will destroy the ecological environment; and
- (4) those which shall be prohibited from import or export according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 18

The competent department of foreign economic relations and trade of the State Council shall, jointly with other departments concerned of the State Council and according to the provisions of Article 16 and 17 of this Law, formulate, adjust and publish a list of commodities and technology whose import or export shall be restricted or prohibited.

The competent department of foreign economic relations and trade of the State Council may, by itself or jointly with other departments concerned of the State Council, with the approval of the State Council, make a decision at the last moment to restrict or prohibit the import or export of certain specific commodities and technology which fall in categories listed in Article 16 and 17 of this Law but are not included in the list as mentioned in the preceding paragraph.

Article 19

Those commodities whose import or export is restricted shall be administered by a quota or license system; those technology whose import or export is restricted shall be administered by a license system.

The commodities and technology which are administered with a quota or license system may be imported or exported only after the competent department of foreign economic relations and trade of the State Council has, by itself or jointly with other departments concerned of the State Council, permitted in accordance with the provisions of the State Council .

Article 20

Import and export quotas shall be allotted on the principle of benefit, impartiality, openness and fair competition and in the light of the situations of the applicants such as the achievements and capacity of import and export and so on by the competent department of foreign economic relations and trade or other departments concerned of the State Council within their respective authority.

The way and measures in and with which the quotas be allotted shall be prescribed by the State Council.

Article 21

Where any other laws or regulations impose prohibitions or restrictions on import and export of any goods or articles such as cultural relics, wild animals and plants and the products thereof and so on, those laws or regulations shall be applied.

Chapter IV International Service Trade

Article 22

The State shall promote the development of international service trade step by step.

Article 23

In regard of international service trade, the People's Republic of China shall, according to the promise made in the international treaties or agreements which she has concluded or acceded to, accord market access and the national treatment to the other signatories and acceding parties of the treaties or agreements.

Article 24

The State may impose restrictions on some international service trade for the purpose of

- (1) safeguarding the national security or the social and public interests;
- (2) protecting the ecological environment;
- (3) building or speeding up the building of any certain domestic service trade;
- (4) ensuring the balance between the foreign exchange income and expenditure of the State; or
- (5) other purposes prescribed by laws or regulations.

Article 25

The State shall impose prohibitions on the international service trade coming under the following categories:

- (1) those which will endanger the national security or whose which are prejudicial to the social and public interests;
- (2) those which are contrary to the international obligations of the People's Republic of China; and
- (3) those which are prohibited by any other law or regulations.

Article 26

The competent department of foreign economic relations and trade and other departments concerned of the State Council shall, in accordance with the provisions of this Law and other relevant laws and regulations, conduct administration on international service trade.

Chapter V Foreign Trade Order**Article 27**

In their foreign trade activities, foreign trade operators shall do business according to law, take fair competition, and shall not commit any of the following acts:

- (1) forging, altering or trafficking certificate of origin or import or export license;
- (2) infringing on any intellectual property protected by laws of the People's Republic of China;
- (3) squeezing out other competitors through unfair practices;
- (4) cheating the State out of drawback; or
- (5) other acts that violate laws and regulations.

Article 28

In their foreign trade activities, foreign trade operators shall convert and expend foreign exchanges according to the relevant provisions of the State.

Article 29

Where the increase of import of any products causes or threatens to cause serious injury to any domestic producer of like products or products of a direct competitive relationship, the State may adopt necessary protective measures to eliminate or alleviate the injury or the threat of injury.

Article 30

Where any products are imported at a price lower than their normal value, and so cause or threaten to cause material injury to any existing relative domestic industry, or bring material obstruction to the establishment of any relative domestic industry, the State may adopt necessary measures to eliminate or alleviate the injury, the threat of injury or the obstruction.

Article 31

Where any imported products are directly or indirectly subsidized by the export country in any form, and so cause or threaten to cause material injury to any existing relative domestic industry, or bring material obstruction to the establishment of any relative domestic industry, the State may adopt necessary measures to eliminate or alleviate the injury, the threat of injury or the obstruction.

Article 32

Where any circumstances as specified in Article 29, 30 and 31 occur, the department or agency specified by the State Council shall make an investigation and settlement according to the provisions of laws and regulations.

Chapter VI Promotion of Foreign Trade

Article 33

The State shall, according to the need of developing of foreign trade, establish and improve financial institutions serving foreign trade, and set up the development and risk foundations for foreign trade.

Article 34

The State shall develop foreign trade by taking foreign trade promotion measures such as import and export credit, export drawback and others.

Article 35

Foreign trade operators may establish and join Chamber of Commerce of Importers and Exporters according to law.

A Chamber of Commerce of Importers and Exporters shall abide by laws and regulations, and conduct coordination and direction over the foreign trade activities of its members, provide consulting service, convey to the government departments the proposals of its members concerning the promotion of foreign trade and take vigorous action to promote foreign trade according to its constitution.

Article 36

The Chinese organization for the promotion of international trade shall, according to its constitution, develop foreign connections, hold exhibitions, provide information and consulting service, and take other action to promote foreign trade.

Article 37

The State shall promote and give aid to the development of foreign trade of the national autonomous localities and undeveloped regions.

Chapter VII Legal Responsibility

Article 38

Those who smuggle goods whose import or export is restricted or prohibited shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility in accordance with the Supplementary Provisions Concerning the Punishment of the Crimes of Smuggling, and, when it does not constitute a crime, be punished in accordance with the provisions of the Customs Law. The competent department of foreign economic relations and trade of the State Council may in addition revoke their business permit of foreign trade.

Article 39

Those who forge or alter certificates of origin or licenses of import or export shall be prosecuted for the criminal responsibility in accordance with the provisions of Article 167 of the Criminal Law; those who traffic certificates of origin or licenses of import or export, or traffic forged or altered certificates of origin or licenses of import or export, shall be prosecuted for the criminal responsibility by applying mutatis mutandis the provisions of Article 167 of the Criminal Law.

Where the offender is an organization, that organization shall be sentenced to a fine, while the directly responsible person in charge and other directly responsible person shall be prosecuted for the criminal responsibility in accordance with, or by applying mutatis mutandis, the provisions of Article 167 of the Criminal Law. The competent department of foreign economic relations and trade of the State council may in addition revoke its business permit of foreign trade.

Those who know well that the import or export license is forged or altered and import or export goods thereby shall be punished in accordance with the provisions of Article 38 of this Law.

Article 40

Those who, in violation of the provisions of this Law, import or export technology whose import or export is prohibited or restricted, shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility by applying mutatis mutandis the provisions of the Supplementary Provisions Concerning the Punishment of Crimes of Smuggling.

Article 41

Any foreign trade functionary who neglects his duties, engages in malpractice out of personal considerations or abuses his power shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility according to law, and, when it does not constitute a crime, be given an administrative sanction.

Any foreign trade functionary who takes advantage of his office to ask for a bribe or accept a bribe from a person and seek interests for him shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility in accordance with the provisions of the Supplementary Provisions Concerning the Punishment of Crimes of Embezzlement and Bribery, and, when it does not constitute a crime, be given an administrative sanction.

Chapter VIII Supplementary Provisions

Article 42

The State shall adopt flexible measures with the frontier trade between border towns of China and those of China's neighbouring countries and with the frontier trade between border inhabitants of China and those of China's neighbouring countries, and give them favorable treatment and convenience. The particular measures shall be formulated by the State Council.

Article 43

This Law shall not apply to the separate customs regions of the People's Republic of China.

Article 44

This Law shall become effective on 1 July 1994.

**Provisional Measures for Automatic Registration of
Import and Export Trading Rights by Production Enterprises
in the Special Economic Zones**

Article 1

These measures are hereby formulated in accordance with the Foreign Trade Law of the People's Republic of China with a view to support the foreign trade and economic cooperation activities in the special economic zones and further the reform on foreign trade structure.

Article 2

Production enterprises in the special economic zones referred to in these Measures refer to production enterprises registered in the five special economic zones including Shenzhen, Zhuhai, Shantou, Xiamen and Hainan in accordance with the Administration Rules of the People's Republic of China on the Registration of Corporate Legal Persons (hereinafter referred to as "the production enterprises", excluding foreign-funded ventures).

Article 3

The Ministry of Foreign Trade and Economic Cooperation (hereinafter referred to as MOFTEC) shall be responsible for the promulgation of unified policy on automatic registration of right to handle imports and exports by production enterprises. The foreign economic and trade authorities of Shenzhen, Zhuhai, Shantou, Xiamen and Hainan special economic zones shall be responsible for the concrete implementation and administration of automatic of automatic registration of such right by production enterprises in their respective zones.

Article 4

The production enterprise shall meet the following conditions to apply for import and export trading right:

1. Legal registration with the industrial and commercial department of the special economic zone and qualification as a legal person with a registered capital over 2 million yuan.
2. Possession of a fixed production site and operational production equipments.
3. Definite business scope.
4. Possession of a place, capital and professionals needed to conduct foreign trade.
5. Other conditions stipulated by laws and administrative regulations.

Article 5

The production enterprises applying for import and export trading right shall submit their applications to the foreign economic and trade authorities in the respective zones. The authorities shall register the qualified applications within 15 working days and issue the Registration Certificate of Import and Export Trading Right. The production enterprises shall be able to conduct import and export business after finishing the required procedures in the related authorities including the Customs, Commodity Inspection, Foreign Exchange Control, Industrial & Commercial Administration and Taxation with the Certificate. The foreign economic and trade authorities shall refuse to register disqualified production enterprises and return them the applications within 15 working days together with the reasons.

Article 6

The production enterprises with import and export trading right shall re-register or cancel the registration with the original registration department of the foreign economic and trade authorities in case of industrial and commercial registration change and cancellation.

Article 7

The production enterprises shall fill in the unified import and export trading right application form for production enterprises printed by the foreign economic and trade authorities of the special economic zone and submit the following documents:

1. Brief introduction of the production enterprise concerned (including self-owned assets, factory area, number of working staff, kind and quantity of production equipments, products and annual output).
2. A copy of the business license (with the original submitted for examination).
3. Assets evaluation report by a legally qualified assets evaluation agency.
4. Catalogue of import and export commodities to be handled.
5. Appointment document, identification card, address and telephone number of the legal person.

Article 8

Import and export business scope of the production enterprises shall include:

1. The import and export of self-produced products.
2. The import and export of machinery equipment, components, and raw and auxiliary materials needed in the production.
3. In spite of the stipulations in 1 and 2, without the approval from MOFTEC, the production enterprises shall not be allowed to conduct the export of 16 categories of commodities listed for unified handling under state plans and the import of 14 categories of commodities to be handled exclusively by state-designated corporations.

Article 9

The production enterprises having been registered and having acquired the import and export trading right shall declare at the Customs within the special economic zone and conduct the import and export business in the zone.

Article 10

The production enterprises having acquired import and export trading right shall comply with the state's foreign economic and trade policies, laws and regulations. The import and export business shall be subject to the guidance and supervision of local foreign economic and trade authorities and coordination by chambers of importers and exporters.

Article 11

The foreign economic and trade authorities in special economic zones shall provide active support and service to the import and export activities of the production enterprises. The authorities shall also conduct standardized administration and set up an annual examination system according to the local situation of respective zones.

Article 12

The production enterprises can, during the implementation of these Measures, apply to MOFTEC for reconsideration of decisions made by local foreign trade and economic departments if they have objections against these decisions.

Article 13

These Measures shall be interpreted by MOFTEC.

Article 14

These Measures shall enter into force on the date of promulgation.

**Interim Provisions for the Granting of Rights of Self-Managed
Import and Export to Privately-Owned Production Enterprises
and Scientific Research Academies and Institutes**

(Approved by the State Council on 2 September 1998 and
promulgated by the Ministry of Foreign Economic Relations and Trade
on 1 October 1998)

Article 1

These Provisions are formulated in accordance with the Foreign Trade Law of the People's Republic of China for purposes of deepening the reform of the foreign trade system, sustaining and guiding the sound development of the nonpublic economy, and actively promoting the privately-owned production enterprises or scientific research academies and institutes in participating in international competition.

Article 2

The privately-owned production enterprises and scientific research academies and institutes referred to in these Provisions mean the production enterprises or scientific research institutions of capital under private ownership or holdings by private capital registered according to law(including sole-proprietorship enterprises, partnership enterprises, limited liability companies and joint-stock companies limited).

Article 3: Application Qualifications

- I. A privately-owned production enterprise possessing the following requisites simultaneously may apply for rights of self-managed import and export:
 - (1) an enterprise which has already entered into registration at the organ of industry and commerce administration of the locality wherein the production enterprise is located, has obtained a business licence and has a registered capital and net assets both more than RMB 8.5 million Yuan;
 - (2) the annual sales revenue and volume of export supply amount to more than RMB 50 million Yuan and US\$ 1 million respectively for two consecutive years(the annual sales revenue and volume of export supply of an enterprise for electrical and mechanical products amount to more than RMB 30 million Yuan and US\$ 500000 respectively); and
 - (3) having specialized personnel required for self-managed import-export business operations.
- II. A privately-owned scientific research academy or institute(including new and high-tech enterprise) possessing the following requisites simultaneously may apply for rights of self-managed import and export:
 - (1) an academy(institute or enterprise) that has already entered into registration at the organ of industry and commerce administration of the locality wherein it is located, has obtained a business licence and has a registered capital and net assets both more than RMB 8.5 million Yuan;
 - (2) the annual sales revenue of the scientific research academy or institute amounts to more than RMB 3 million Yuan, the annual sales revenue of the new and high tech enterprise confirmed by the competent department of science and technology above

the provincial level amounts to more than RMB 30 million Yuan(the annual sales revenue of the development-type new and high-tech enterprise amounts to more than RMB 10 million Yuan); and

- (3) having specialized personnel required for self-managed import-export business operations.

Article 4: Application Materials Submission

1. An application report for rights of self-managed import and export of the privately-owned production enterprise or scientific research academy or institute;
2. Articles of association of the enterprise or academy(institute);
3. The business licence of the legal entity(photocopy of the original);
4. Certification of the enterprise passing annual inspection for two consecutive years and certification of assets issued by the organ of industry and commerce administration;
5. A catalog of commodities for self-managed import and export under application;
6. Certification of export supply issued by the foreign trade enterprise for export agency;
7. Certification of tax payment issued by the tax department above the county level; and
8. In the case of a new and high-tech enterprise, a certificate of new and high-tech enterprise issued by the competent department of science and technology is required to be produced.

Article 5: Application and Examination and Approval Procedures

A privately-owned production enterprise or scientific research academy(institute) shall file an application in writing with the competent department of foreign economic relations and trade of the locality of registration which shall, upon examination of the competent department of foreign economic relations and trade of the provinces, autonomous regions, municipalities directly under the Central Government and municipalities under direct planning by the state, be submitted to the Ministry of Foreign Economic Relations and Trade(hereinafter referred to as MFERT for abbreviation)for examination and approval.

Article 6

The privately-owned production enterprise or scientific research academy(institute) that has obtained the rights of self-managed import and export upon approval shall, on the strength of the approval document, go through the relevant formalities at departments of customs, entry and exit inspection, foreign exchange control, industry and commerce administration and taxation, and apply for the obtainment of a certificate of qualification of import-export enterprise from the competent department of foreign economic relations and trade of the provinces, autonomous regions, municipalities directly under the Central Government and municipalities under direct planning by the state, then conduct self-managed import-export business operations. Separation, amalgamation and change in the catalog of commodities for self-managed import and export of a privately-owned production enterprise or scientific research academy(institute) with the obtainment of rights of self-managed import and export must be submitted to MFERT for approval; change in enterprise name shall be subject to advance verification and approval of the name by the organ of industry and commerce administration and submitted to MFERT for corresponding formalities of approval; cases of nullification shall be submitted to MFERT for the record.

Article 7: Rights and Obligations

The rights enjoyed by and obligations to be undertaken by the privately owned production enterprise and scientific research academy(institute) with the obtainment of rights of self-managed import and export upon approval are as follows:

1. It may directly engage in self-managed import-export business operations.
2. It may, within the approved import-export business scope, operate export business of the self-produced products of the said enterprise or academy(institute) and operate import business of machinery and equipment, spare parts and components, raw materials and auxiliary materials required for the production and scientific research of the said enterprise or academy(institute).
3. It may apply to join the chamber of commerce for import and export, participate in relevant foreign economic and trade activities organized by the competent departments of foreign economic relations and trade of the state or the locality, and receive guidance from the state foreign trade policy.
4. It may, in conducting self-managed import-export trade activities, enjoy identical treatment enjoyed by publicly-owned production enterprises or scientific research academies(institutes) with self-managed import-export business operations.
5. It shall abide by the policy, laws and regulations relating to foreign trade.
6. It shall subject itself to the supervision, administration and coordination of the competent department of foreign economic relations and trade and the chamber of commerce for import and export.
7. It shall actively promote export for foreign exchange earning.

Article 8

The competent departments of foreign economic relations and trade at all levels should, with respect to the conduct of import-export business by privately-owned production enterprises or scientific research academies(institutes) with the obtainment of rights of self-managed import and export, render active support, strengthen guidance and do a good job in providing services and standardized administration.

Article 9

Privately-owned production enterprises or scientific research academies(institutes) with the obtainment of rights of self-managed import and export shall, in the event of violation of the provisions of relevant state policies, be imposed the penalties of metering out criticism in a circular, administering a warning or revocation of rights of self-managed import and export.

Article 10

The Ministry of Foreign Economic Relations and Trade shall be responsible for the interpretation of these Provisions.

Article 11

These Provisions shall come into force as of 1 January 1999.

**Notice of the Ministry of Foreign Trade and Economic Cooperation
on the Registration of Import and Export Trading Rights by State-owned and
Collective Production Enterprises**

4 January 1999

Ministries, Commissions and affiliate agencies of the State Council, Foreign Economic and Trade Commissions (Bureaux) of provinces, autonomous regions, municipalities under direct supervision of the central government and municipalities of independent budgetary status:

For the purposes of furthering the reform on foreign trade regime and promoting and supporting more competent production enterprises to participate in international competition, the Ministry of Foreign Trade and Economic Cooperation decides, in accordance with the Notice of Taking Further Measures to Stimulate Export Trade, to expand the application scope of registration of import and export trading right, that is, to register import and export trading right by state-owned and collective production enterprises within the territory of the country on the basis of registration of import and export trading right by production enterprises in the Special Economic Zones, a thousand priority enterprises and large-sized state-owned enterprises. Related affairs are hereby noticed as follows:

1. State-owned and collective production enterprises (hereinafter referred to as "production enterprises") referred to in this Notice refer to enterprises whose ownership are identified as "state-owned" and "collective" in the business licenses of legal persons, and limited liability companies and limited joint-stock companies identified as state-owned ones and those with majority collective ownership by relevant government departments.

2. Production enterprises applying for registration of import and export trading right shall meet the following requirements:

- (1) Registered capital of the production enterprises shall be over five million RMB yuan. (Registered capital of those in minority areas and central and west regions shall be over three million RMB yuan). Registered capital of the production enterprises producing electronic and machinery products shall be over two million RMB yuan.
- (2) The production enterprises must possess a fixed production site and facilities, capital and specialized personnel required for import-export business operation.
- (3) The production enterprises must have already started production and self-produced quality products are available for export.
- (4) Products of the production enterprises must meet the qualitative requirement for export.

3. Production enterprises shall apply for the registration of import and export trading right to foreign economic and trade authorities of respective provinces, autonomous regions, municipalities under direct supervision of the central government and municipalities of independent budgetary status where these enterprises have registered. Production enterprises having registered in the State Administration of Industry and Commerce shall apply to foreign economic and trade authorities of respective provinces, autonomous regions, municipalities under direct supervision of the central government and municipalities of independent budgetary status where these enterprises operate their business.

4. Foreign economic and trade authorities of provinces, autonomous regions, municipalities under direct supervision of the central government and municipalities of independent budgetary status shall register the production enterprises and issue the Registration Certificate of Import and Export Trading Right of Production Enterprises (see the forms in the annex) within ten working days after receiving the applications of these enterprises and consulting with local economic and trade commissions. The production enterprises shall be able to conduct import and export business after obtaining the Certificate of Import and Export Enterprises of the People's Republic of China from foreign economic and trade authorities of respective provinces, autonomous regions, municipalities under direct supervision of the central government, and municipalities of independent budgetary status by finishing required procedures with related authorities including the Customs, Commodity Inspection, Foreign Exchange Control, Industrial and Commercial Administrations and Taxation with the Certificate.

5. The production enterprises shall submit following materials when applying for import and export trading right:

- (1) Application in written forms (including related contents in the Registration Certificate of Import and Export Trading Right);
- (2) A copy of the business license;
- (3) A catalogue of import and export products to be handled;
- (4) Original certificate of state or collective ownership by industrial and commercial administrations, auditing agencies, or accounting firms when the production enterprise is a limited liability company or a limited joint-stock company;
- (5) Other materials required by registration authorities.

6. Import and export business scope of the production enterprises includes:

- (1) Import and export of self-produced products (including products produced by member enterprises of the same group);
- (2) Import and export of machinery equipment, components, and raw and auxiliary materials need in the production and scientific research of the enterprises (including member enterprises of the same group);
- (3) Processing trade of imported materials or according to supplied samples, assembling of supplied parts, and compensation trade conducted by the enterprise (including member enterprises of the same group).

The import and export business scope and the commodity catalogue of the production enterprise shall be verified by the Ministry of Foreign Trade and Economic Cooperation and foreign economic and trade authorities of respective provinces, autonomous regions, municipalities under direct supervision of the central government and municipalities of independent budgetary status.

7. Production enterprises that have registered and obtained import and export trading right must abide by relevant laws, regulations and trade policies of the state, and their import and export business shall be subject to guidance and supervision of local foreign economic and trade authorities as well as the coordination of relevant chambers of importers and exporters. Production enterprises will be imposed administrative penalties by the Ministry of Foreign Trade and Economic Cooperation in

accordance with the Foreign Trade Law of the People's Republic of China if they violate relevant laws or regulations.

8. The Ministry of Foreign Trade and Economic Cooperation is responsible for organizing and implementing the registration of import and export trading right by production enterprises. Reports shall be submitted by foreign economic and trade authorities of provinces, autonomous regions, municipalities under direct supervision of the central government, and municipalities of independent budgetary status to the Ministry of Foreign Trade and Economic Cooperation every half year for record and also to the State Economic and Trade Commission and local commissions.

(Annex: omitted)
